

II F A Basis for Discussion
for Constitutional Development
in the Mackenzie District

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A Basis For Discussion
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in the Mackenzie District

Preamble:

"The Mackenzie Territory"

R.D. Sparham

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The People as Cultural Entities: "Territorial Regional Councils"

The Protection in Perpetuity of the Rights of Distinctive Peoples:
"A Second Chamber"

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Essentially, this proposal aims to carry the concept of Canadian
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A. Preamble

The problem is ^{to devise} a system of institutions which will deal justly with aboriginal Canadians (Indians, Inuit and Metis) and Euro-Canadians living in the Territories herein defined as the "Mackenzie Territory".

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Federation reflect the difference of region, of historical tradition, and of language (French and English) - so should the "Mackenzie Territory" reflect the differences of region, of culture and of language which it contains.

The simple "majority rule" of a Canadian Province on the lines of the present provinces provides no future for the aboriginal peoples except as reservation natives or ghetto natives. Just as the B.N.A. Act builds in guarantees in perpetuity for English and French as "Canadians" so must a "Mackenzie Act" build into the structures of any future political institutions guarantees for the future of aboriginal peoples and cultures as "Canadian". It will be a very arduous task to achieve agreement because many native people have become so dominated by institutions committed to the supremacy of English and French that they have almost lost the capacity and the will for self-determination.

This proposal is based on the twin hopes that Euro-Canadians will give up the drive for institutional domination of the native people; and that the native people will recover the strength and unity to insist upon a place commensurate with their rights and dignity in the government of the Mackenzie Territory and, indeed, of the country.

B. The "Mackenzie Territory"

The Territory here referred to is that generally bounded by the Yukon Border, the 60th parallel and the treeline.

C. The People as a Territorial Whole; "Mackenzie Territorial Legislature"

i. Languages: "Official" and "Working"

There should be a Territorial Legislature based on the principle of "one man, one vote". This Legislature should be constitutionally committed -- "in perpetuity" -- to the preservation and development of peoples of the following languages and cultures: Loucheaux, Hareskin, Slavey, Chipewyan, Cree, Dogrib, English and French. Each of these languages should be official languages of the Legislature. One of these languages -- and English is the most logical -- should be constitutionally regarded as the "Working Language" of the Legislature. The right of any member to use any one of the "official languages" would consist in the right to have interpretation of the spoken word to and from the working language into the official language. The degree to which the right to translation of the written word should be constitutionally entrenched is an area needing further research and negotiation.

ii. Electoral Districts

The constituencies of the Legislature should be constitutionally established as divisions of the Territorial Regions identified in E. below.

The number of constituencies in each Territorial Region should strictly represent the numbers of the population except that no Territorial Region should ever have fewer than one Territorial constituency. Constituency boundaries should never overlap the boundaries of Territorial Regions.

iii. Powers

The powers currently vested in the N.W.T. Territorial Council should be transferred to the "Mackenzie Territorial Legislature" subject to the provisions in clauses i and ii above and in sections D and E and F below.

D. The People as Cultural Entities:

"Territorial Regional Councils"

i. Definition of Region

The Mackenzie Territory should contain constitutionally established Regions which coincide with the existing home lands of the cultural traditions -- aboriginal and Euro-Canadian -- whose languages are specified in C(i) above as official languages of the Mackenzie Territorial Legislature. The number and the boundaries of each Region to be established would be the subject of further research and negotiation.

ii. Regional Councils

Each Region should have a Council elected by universal suffrage. Constitutional questions such as the size of Councils; the electoral system to apply (whether a "ward" or "riding" system -- or a single constituency system); etc; would be the subject of further research and negotiation.

iii. Powers

Regional Councils should have sufficient constitutional powers to determine those issues which will enable each cultural entity to survive, develop and flourish. At a minimum these powers should include the right to decide the language(s) of instruction in schools; the right to determine the language(s) of the Territorial and the Regional administration in the Regional Council's area of jurisdiction; and the power to recognize structures of community government now existing in the settlements in their Regions. The full details of the powers to be enjoyed and the exact forms of the Constitutional relationship between the Territorial Legislature and the Regional Councils would be subjects for further research and negotiation.

iv. Community Government ("Local Government")

Territorial Regional Councils should be responsible for deciding the forms of local government within the Region and for the administration of services within those communities. The method of delegation of powers

from Regional Councils to structures of local community government would be the subject of further research and negotiation.

E. The Protection in Perpetuity of the Rights of Cultural Groups

"A Second Chamber"

i. Purpose

A second chamber -- a "Senate" -- is necessary to preserve in perpetuity the rights of the "official language groups" and of the "Territorial Regions". Its function would be analagous both to the Senate of Canada and to the Senate of the United States. It would scrutinize legislation of the Territorial Legislature to ensure that it was not inimical to any official language group or to any Region.

ii. Membership

Each Territorial Region would have two members ("Senators") in the second chamber. Whether they should both be elected; both appointed by Regional Councils; or one elected and one appointed -- would be the subject of further research and negotiation.

iii. Powers

The second chamber should have power to veto legislation of the Territorial Legislature on specifically determined grounds; e.g. that the legislation discriminates against an "official Territorial language";

or abridges the powers of a Territorial Regional Council; or changes the constitutional agreement(s) finally arrived at in the "settlement of land claims". The second chamber should have the right also to place resolutions of principle before the Territorial Legislature; and to veto appointments to the Territorial Executive. The exact nature of the veto powers; of the advisory powers; and of other powers that might be appropriate to the second chamber would be the subject of further research and negotiation.

F. Efficient and Democratic Administration: "The Executive"

i. The Chief Executive

At some point in the future the "Mackenzie Territorial Legislature" may become a Provincial Legislature. Until that time the Chief Executive of the Mackenzie Territory should be a Commissioner appointed by agreement between the second chamber, the Mackenzie Territorial Legislature and the Government of Canada. The Territorial Executive Committee should consist of members nominated by the Territorial Legislature and agreed to by the second chamber.

ii. Regional Officials

The appointment of officials to any post in the Territorial Regions should be subject to the approval of the Regional Council concerned.

The work of the Territorial Public Service should be decentralized to the control of the Regional Councils who would appoint their own Regional Directors. The question as to whether the Commissioner should have advisory powers, or veto powers, over the appointment of Regional Directors serving Regional Councils would be the subject of further research and negotiation.

R. D. Sparham

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